

**BEFORE THE TENNESSEE STATE BOARD OF EQUALIZATION**

|        |                             |   |                 |
|--------|-----------------------------|---|-----------------|
| IN RE: | Todd A. & Laurie S. Hilbert | ) |                 |
|        | Map 131-03-0, Parcel 181.00 | ) | Davidson County |
|        | Residential Property        | ) |                 |
|        | Tax Year 2007               | ) |                 |

**INITIAL DECISION AND ORDER**

**Statement of the Case**

An Appeal has been filed on behalf of the property owner with the State Board of Equalization on September 18, 2007. The subject property is presently valued as of April 1, 2007, on a pro-rated assessment as follows:

| <u>LAND VALUE</u> | <u>IMPROVEMENT VALUE</u> | <u>TOTAL VALUE</u> | <u>ASSESSMENT</u> |
|-------------------|--------------------------|--------------------|-------------------|
| \$115,000         | \$596,600                | \$711,600          | \$177,900         |

This matter was reviewed by the undersigned administrative law judge pursuant to Tennessee Code Annotated (T.C.A.) §§ 67-5-1412, 67-5-1501 and 67-5-1505. This hearing was conducted on November 20<sup>th</sup>, 2007, at the Davidson County Property Assessor's Office. Present at the hearing were Todd A. Hilbert, the taxpayer and Mr. Jason Poling, Deputy Residential Appraiser, Division of Assessments for the Metro. Property Assessor.

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

Subject property consists of a single family residence located at 1705 Warfield Drive in Nashville, Tennessee. The home was built about 1948, but has an effective year built of 1990 due to substantial renovations made to the home in 2007. The subject is located on 0.39 acres of land and has 4100 square feet<sup>1</sup>.

The taxpayer contends that the property is worth \$352,473 based on his analysis that the additional 2008 square footage that was added should be attributable at a value of \$61.00 per square foot on the addition. Mr. Hilbert also believes that even with the renovations his home is more a C grade than a B grade as the County has it labeled. The assessor contends that the property should be valued at \$633,000<sup>2</sup>. In support of this position, four comparable sales were introduced and are part of the collective exhibit submitted by the County.

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<sup>1</sup>A field review was conducted on November 15, 2007, at which time the home was re-measured and the square footage corrected on the property record card, it previously indicated that the home had more than 4502 square footage.

<sup>2</sup> This is less than the current value assessed but based on the field review and the sales comparison analysis the County is requesting this value for the pro-rated assessment of 2007.



The germane issue in this appeal is the value of the property as of January 1<sup>st</sup> of the tax year in question; however, this is a pro-rated assessment with a valuation date of April 1<sup>st</sup>, 2007. The basis of valuation as stated in T.C.A. § 67-5-601(a) is that “[t]he value of all property shall be ascertained from the evidence of its sound, intrinsic and immediate value, for purposes of sale between a willing seller and a willing buyer without consideration of speculative values . . . .”

After having reviewed all the evidence in this case, the administrative judge finds that the subject property should be valued at \$633,000 based upon the based upon the presumption of correctness attaching to the decision of the Davidson County Board of Equalization which is supported by the valuation analysis of the County’s representative.

Since the taxpayer is appealing from the determination of the Davidson County Board of Equalization, the burden of proof is on the taxpayer. See State Board of Equalization Rule 0600-1-.11(1) and *Big Fork Mining Company v. Tennessee Water Control Board*, 620 S.W. 2d 515 (Tenn. App. 1981)

With respect to the issue of market value, the administrative judge finds that Mr. Hilbert simply introduced insufficient evidence to affirmatively establish the market value of subject property as of April 1, 2007, the relevant assessment date pursuant to Tenn. Code Ann. § 67-5-504(a).

As explained by the Assessment Appeals Commission in *E.B. Kissell, Jr.* (Shelby County, Tax Years 1991 and 1992) as follows:

***The best evidence of the present value of a residential property is generally sales of properties comparable to the subject, comparable in features relevant to value.*** Perfect comparability is not required, but relevant differences should be explained and accounted for by reasonable adjustments. If evidence of a sale is presented without the required analysis of comparability, it is difficult or impossible for us to use the sale as an indicator of value. . . . Final Decision and Order at 2.

The administrative judge finds that the procedure normally utilized in the sales comparison approach has been summarized in one authoritative text as follows:

To apply the sales comparison approach, an appraiser follows a systematic procedure.

1. Research the competitive market for information on sales transactions, listings, and offers to purchase or sell involving properties that are similar to the subject property in terms of characteristics such as property type, date of sale, size, physical condition, location, and land use constraints. The goal is to find a set of comparable sales as similar as possible to the subject property.
2. Verify the information by confirming that the data obtained is factually accurate and that the transactions reflect



arm's-length, market considerations. Verification may elicit additional information about the market.

3. Select relevant units of comparison (e.g., price per acre, price per square foot, price per front foot) and develop a comparative analysis for each unit. The goal here is to define and identify a unit of comparison that explains market behavior.

4. Look for differences between the comparable sale properties and the subject property using the elements of comparison. Then ***adjust the price of each sale property to reflect how it differs from the subject property or eliminate that property as a comparable***. This step typically involves using the most comparable sale properties and then adjusting for any remaining differences.

Reconcile the various value indications produced from the analysis of comparables into a single value indication or a range of values. [Emphasis supplied] Appraisal Institute, *The Appraisal of Real Estate* at 422 (12<sup>th</sup> ed. 2001). Andrew B. & Marjorie S. Kjellin, (Shelby County, 2005)

#### ORDER

It is therefore ORDERED that the following value and assessment be adopted as the pro-rated assessment with an effective date of April 1, 2007 for tax year 2007:

| <u>LAND VALUE</u> | <u>IMPROVEMENT VALUE</u> | <u>TOTAL VALUE</u> | <u>ASSESSMENT</u> |
|-------------------|--------------------------|--------------------|-------------------|
| \$115,000         | \$ 518,000               | \$633,000          | \$158,250         |

It is FURTHER ORDERED that any applicable hearing costs be assessed pursuant to Tenn. Code Ann. § 67-5-1501(d) and State Board of Equalization Rule 0600-1-.17.

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal “**must be filed within thirty (30) days from the date the initial decision is sent.**” Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal “**identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order**”; or

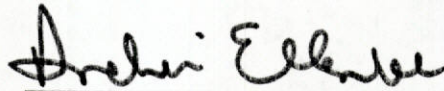
2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review; or



3. A party may petition for a stay of effectiveness of this decision and order pursuant to Tenn. Code Ann. § 4-5-316 within seven (7) days of the entry of the order.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 18<sup>th</sup> day of January, 2008.



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ANDREI ELLEN LEE  
ADMINISTRATIVE JUDGE  
TENNESSEE DEPARTMENT OF STATE  
ADMINISTRATIVE PROCEDURES DIVISION

c: Mr. Todd A. Hilbert  
Jo Ann North, Assessor of Property